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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,951	05/29/2002	Erik Coelingh	201-0700	2367

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EXAMINER

HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 05/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,951

Applicant(s)

COELINGH ET AL.

Examiner

Olga Hernandez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-11,16-20 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/5/03 have been fully considered but they are not persuasive. The applicant argues that the prior art does not teach all the elements present in the claims. The examiner disagrees. Due to the fact that the claims are so broad, any system or subsystem can be applied/read to it as described in the disclosure. Moreover, it has been interpreted/considered that a subsystem *can be* a controller for examining purposes. Neither in the specification nor in the claims, the applicant has defined what is a system or subsystem. The following office action identifies/refers to all the elements taught by the prior art the same as the previous one. Regarding the motivation statement for the 103 rejections, to establish a prima facie case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves *or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings*. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

Where is clear to the examiner that the 103 rejection has met the criteria.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sigl (5,794,735).

As per claims 1 and 11,

- providing driver subsystem and an active assist subsystem (abstract);
- receiving at least one driver input into the driver subsystem from a driver of the vehicle (figure 1);
- outputting a driver output from the driver subsystem to the active assist subsystem, the driver output being derived from the at least one driver input (figure 1);
- providing at least one active assist program having at least one active input, the at least one active assist program having an on setting wherein the at least one active assist program outputs at least one active input and an off setting wherein the at least one active assist program does not output at least one active input (column 2, lines 30-59)
- providing a vehicle control and implementation subsystem (abstract); and

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- inputting an intended driving demand from the active assist program into the vehicle control implementation subsystem (column 2, lines 60-67);
- wherein the intended driving demand is derived from a combination of the at least one driver input and the at least one active input if the at least one active assist program is in the on setting and if the driver of the vehicle does not overrule the at least one active assist program, otherwise the intended driving demand is derived from the at least one driver input, such that the vehicle control and implementation subsystem cannot determine its instructions come from the at least one driver input or the at least one active assist program (column 3, lines 4-54).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 7, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fritz (6,098,007).

As per claims 6 and 16, Sigl does not include the longitudinal acceleration. However, Fritz teaches it in the abstract. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

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As per claims 7 and 17, Sigl does not include the longitudinal velocity. However, Fritz teaches it in column 3, lines 62-66. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

5. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Ishii et al (4,828,283).

As per claims 10 and 20, Sigl does not include the wheel angle. However, Ishii teaches it in column 2, lines 45-50. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

6. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fukada (5,927,421).

As per claims 8 and 18, Sigl does not include the wheel angle. However, Fukada teaches it in column 3, lines 48-51. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

7. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigl (5,794,735) in view of Fujita (5,822,709).

As per claims 8 and 18, Sigl does not include the slip angle. However, Fujita teaches it in column 12, lines 55-58. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to control the motor vehicle.

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Allowable Subject Matter

8. Claims 2-5 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

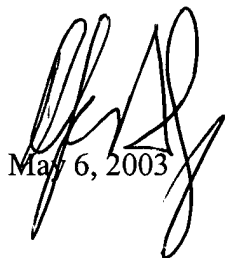
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (703) 305-0918. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



May 6, 2003

Olga Hernandez
Examiner
Art Unit 3661



WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600